

## **333-061-0061**

### **Capacity Requirements for Public Water Systems**

- (1) Water system capacity is defined as the technical, managerial, and financial capability of the water system necessary to plan for, achieve, and maintain compliance with applicable drinking water standards.
- (2) Capacity requirements for new public water systems.
  - (a) Any new community, non-transient non-community, or transient non-community public water system commencing operations on or after October 1, 1999, must meet the applicable requirements in this rule prior to serving drinking water to the public. The owner of such water system shall submit evidence of meeting all applicable requirements to the Authority for review and shall commence operation only after Authority approval. This rule does not apply to water systems that were built and operating prior to October 1, 1999.
  - (b) Requirements for Technical Capacity
    - (A) The water system must comply with the local land use requirements of OAR 333-061-0062, including submission to the Authority of evidence of approval by the local land use authority.
    - (B) The water system must comply with plan submission and review requirements of OAR 333-061-0060, and plans submitted must comply with construction standards in OAR 333-061-0050.
    - (C) The owner of a new water system must demonstrate a valid water right permit as required and prescribed by the Oregon Water Resources Department (ORS chapter 537).
    - (D) The water system must submit initial water quality test results demonstrating compliance with applicable Maximum Contaminant Levels (OAR 333-061-0030), and applicable treatment requirements and performance standards (OAR 333-061-0032 and 0034).
    - (E) Community water systems shall have water use meters installed at all service connections.
    - (F) Community water systems with 300 or more service connections shall have a master plan meeting the requirements of OAR 333-061-0060.
  - (c) Requirements for Managerial Capacity
    - (A) Community and non-transient non-community water systems must employ or contract for the services of a certified operator as required by OAR 333-061-0225.
    - (B) Community water systems within areas of Oregon where State or Federally listed sensitive, threatened or endangered fish species are located, shall consult with the Oregon Water Resources Department. If required by the Oregon Water Resources Department, community water systems shall have water management and conservation plans meeting the requirements of Oregon Water Resources Department OAR 690-086-0010 through 0920.

- (d) Requirements for Financial Capacity. The water system must establish a water rate structure and billing procedure, or alternate financial plan, to assure that funds are collected and available to meet the anticipated operation, maintenance, and replacement costs of the water system.
- (3) Capacity requirements for public water systems applying for a loan from the Drinking Water State Revolving Loan Fund.
- (a) All public water systems qualifying for a Drinking Water State Revolving Fund loan must receive a capacity assessment for technical and managerial capacity from the Authority, and financial capacity from the Oregon Economic & Community Development Department through the loan application process, prior to contract execution.
  - (b) All deficiencies identified in the capacity assessment must be corrected such that:
    - (A) Those deficiencies identified in the capacity assessment as major deficiencies must be corrected prior to contract execution. Major deficiencies include but are not limited to the following:
      - (i) Under technical capacity, major infrastructure deficiencies identified in the sanitary survey and not corrected as a part of this project or identified as a deficiency under paragraph (E) of this subsection; or
      - (ii) Under managerial capacity, no certified operator and no contract or agreement for operator services from another water system or management agency; or
      - (iii) Under financial capacity, inappropriate financial statements, lack of a capital financing program, or an inadequate rate structure to cover necessary system operation, debt service, or capital replacement.
    - (B) Those deficiencies identified in the capacity assessment as loan conditions must be corrected as a part of the contract prior to contract completion or on a schedule set and/or approved and tracked by the Authority or its designee. Loan condition deficiencies are deficiencies which may take considerable staff or contractor time and possibly some funding to correct. Loan condition deficiencies include but are not limited to the following:
      - (i) Under technical capacity, inadequate or no water rights, incomplete installation of water use meters, incomplete or no engineering drawings of the water system, out-of-date or no master plan, or incomplete or no plan review on prior construction projects; or
      - (ii) Under managerial capacity, having an operator at a lower level than required in responsible charge of the water system, no written emergency response plan, no written water conservation program if required by the Water Resources Department under

OAR 690-086-0010 through 690-086-0920, no written water system operations manual, or no cross connection program.

- (C) Those deficiencies identified in the capacity assessment as short term deficiencies must be corrected prior to contract completion and will be tracked by the Authority. Short term deficiencies are deficiencies which can be quickly corrected with additional staff attention. Short term deficiencies include but are not limited to the following:
    - (i) Under technical capacity, water quality monitoring is incomplete, no coliform sample plan or site map, or no written water quality monitoring plan; or
    - (ii) Under managerial capacity, no annual cross connection summary report if required, or no consumer confidence report if required.
  - (D) Those deficiencies identified in the capacity assessment as corrected with the project will be considered by the Authority as corrected with contract completion.
  - (E) All other deficiencies identified in the capacity assessment must be identified and established as a future construction project in the water system master plan, feasibility study, or other such document in order to be considered by the Authority as corrected in the future.
- (c) Funding to correct a deficiency identified as a loan condition under paragraph (b)(B) of this section may be included as part of the project contract under the Drinking Water State Revolving Fund, if that part of the project to correct the deficiency qualifies under the terms of the Drinking Water State Revolving Fund.
- (4) Capacity requirements for other public water systems.
- (a) All community, non-transient non-community, and transient non-community public water systems will receive capacity assessments conducted by or with the assistance of the Authority.
    - (A) The capacity assessment consists of a written report identifying deficiencies in technical, managerial, and financial capacity, and a letter listing recommendations to correct the deficiencies. The findings of the capacity assessment and recommendations for correction will be presented to the management of the water system at a regular or special meeting.
    - (B) The frequency of capacity assessments for a public water system, as described in this subsection, is dependent on the risk to human health as determined by the Authority.
    - (C) The recommendations for correction of deficiencies identified in capacity assessments are, or, become requirements for any public water system, as described in this subsection, with multiple violations of the drinking water standards, in significant non-compliance with

the drinking water standards, or an Administrative Order issued by the Authority.

Stat. Auth.: ORS 448.131

Stats. Implemented: ORS 431.110, 431.150, 448.131, 448.150, 448.268, 448.273

### **333-061-0062**

#### **Land Use Coordination**

- (1) The purpose of this rule is to assure that Oregon Health Authority's actions taken pursuant to ORS 448.131 and OAR chapter 333, division 61, comply with state land use coordination requirements in ORS 197.180 and OAR chapter 660, divisions 30 and 31. This rule also implements applicable portions of the Authority's state agency coordination program concerning the review and approval of plans and projects pursuant to ORS 448.131.
- (2) The requirements of OAR 333-061, shall apply to Authority approval of plans or projects submitted under ORS 448.131 for:
  - (a) New public water systems;
  - (b) Major additions, alterations, and extensions of water transmission mains;
  - (c) Development of new water sources; and
  - (d) Relocation of water treatment or storage facilities.
- (3) In order to approve a plan or project listed under subsections (2)(a) through (d) of this rule, the Authority shall find that it complies with the Statewide Planning Goals and is compatible with applicable acknowledged city and county comprehensive plan and land use regulations. To make its goal compliance and plan compatibility findings, the Authority shall comply with sections (1) through (9) of this rule and shall also adhere to the procedures in the Authority's state agency coordination program which is hereby adopted by reference.
- (4) Except where the Authority is required to directly address the Statewide Planning Goals, the Authority shall make its goal compliance findings for each plan or project listed in subsections (2)(a) through (d) of this rule based on the land use compatibility information provided to the Authority by the project applicant.
- (5) An applicant seeking approval of a plan or project listed in subsections (2)(a) through (d) of this rule shall provide the Authority with information documenting the plan or project's compatibility with the applicable acknowledged comprehensive plans and land use regulations. Such documentation shall be submitted in a manner as established by the Authority and shall include one of the following:
  - (a) A copy of the local land use permit (e.g., conditional use permit, subdivision approval, zoning clearance, etc.) demonstrating that the plan or project has received land use approval from the jurisdiction; or
  - (b) Written information from an authorized representative of the affected city or county affirming that the proposed plan or project is compatible with the acknowledged comprehensive plan(s) for the area, but does not require specific land use approval by the jurisdiction; or

- (c) Other written information acceptable to the Authority equivalent to subsection (5)(a) or (b) of this rule demonstrating the plan or project's land use compatibility.
- (6) The Authority shall adopt findings directly against the Statewide Planning Goals if a situation ever arises where the Authority must approve a plan or project, but is unable to rely upon or is not provided with the appropriate land use compatibility information by the applicant. In this instance, the Authority shall comply with OAR 660-030-0065 and the corresponding procedures in the Authority's state agency coordination program to adopt the necessary findings demonstrating the plan or project's compliance with the Statewide Goals.
- (7) Where more than one unit of local government has land use approval authority over the plan or site of the proposed project, written information from the applicant must be submitted to the Authority as provided in section (5) of this rule documenting the plan or project's compatibility with each of the affected jurisdiction's comprehensive plans.
- (8) Information documenting land use compatibility in accordance with section (5) of this rule may be submitted to the Authority for public water system master plans or portions thereof. In this section, no subsequent land use compatibility determination will be required for an individual project where the applicant demonstrated that the project is contemplated by and consistent with the previously approved master plan.
- (9) The meaning of land use terms used in this rule shall be as defined in OAR 660-030-0005.

Stat. Auth.: ORS 197.180 & 448.131

Stats. Implemented: ORS 197.180 & 448.131